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New York

SUMMARY RECORD OF THE 50th MEETING

Chairman: Mr. ESCOVAR-SALOM (Venezuela)

CONTENTS

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

AGENDA ITEM 147: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (continued)

AGENDA ITEM 151: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued)

COMPLETION OF THE COMMITTEE'S WORK

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/C.6/51/L.20 and A/C.6/51/L.21)

Draft resolution A/C.6/51/L.20 entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization"

1. Mr. MUBARAK (Egypt), introducing the draft resolution, said that Brazil, Ecuador, Egypt, Finland, Kenya, New Zealand, Nigeria, Philippines, Portugal, Tunisia, the United Republic of Tanzania, Venezuela and Zambia had joined the sponsors of the text. The main thrust of the draft resolution was the same as the resolution which had been adopted the previous year on the same subject. The provisions of a resolution which the Special Committee had adopted in the light of the debates that had taken place in the Sixth Committee had been added to the text, which also set out the Special Committee's mandate for its 1997 session. With regard to paragraph 3 (b), which concerned the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, he recalled that a resolution on that subject which had been proposed by Mexico had been adopted at the forty-ninth session. He therefore proposed that the Committee should adopt draft resolution A/C.6/51/L.20 without a vote.

2. Ms. WILLSON (United States of America) said that, while it supported the text of the draft resolution under consideration as well as the efforts made by all delegations to reach a consensus, her delegation could not accept measures whose implementation would cause the budgetary ceiling imposed by the General Assembly for the current biennium to be exceeded. It could join in the consensus if confirmation could be provided that the draft resolution would be implemented from within existing resources, in accordance with the assurances that had been given. Indeed, it had been the understanding of the United States that conference services could be provided for inter-sessional meetings without any additional cost. Given the change in the situation since then, her delegation could not participate in the adoption of the draft resolution. It nevertheless hoped to be able to join in the consensus after the Fifth Committee had determined the programme budget implications of the draft resolution under consideration.

3. Mr. KULYK (Ukraine) said that it had been agreed that the words "in particular" in paragraph 3 (b) of the draft resolution should be replaced by the word "also".

4. The CHAIRMAN assured the representative of Ukraine that his observation would be taken into account. He took it that the Committee wished to adopt draft resolution A/C.6/51/L.20, entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", without a vote.

5. Draft resolution A/C.6/51/L.20 was adopted by consensus.

AGENDA ITEM 147: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (continued) (A/C.6/51/L.10, A/C.6/51/L.22)

Draft resolution A/C.6/51/L.10 entitled "Establishment of an international criminal court"

6. The CHAIRMAN recalled that the draft resolution in question had been previously submitted by the delegation of the Netherlands. He also pointed out that the footnote to paragraph 4 of the draft text was no longer necessary and that document A/C.6/51/L.22 contained the programme budget implications of the draft resolution.

7. Ms. WILLSON (United States of America) said that, while the United States fully endorsed the text of the draft resolution under consideration, unfortunately, it could not join in its adoption. The strictest budgetary discipline must be respected, which meant that expenditures must remain within the limit of the $2,608 billion which had been allocated for the current biennium. In the view of her delegation, it should be possible to convene meetings of the Preparatory Committee on the Establishment of an International Criminal Court, the dates for which had been decided upon within the limits of the resources allocated to Conference Services. Despite its steadfast championing of the cause of budgetary discipline, the United States fully supported the continuation of the work of the Preparatory Committee, which should meet for six weeks in 1997 and then in early 1998, so that a diplomatic conference could be held in mid-1988. Before the draft resolution was put to a vote in the plenary Assembly, the United States would endeavour in the Fifth Committee to obtain confirmation of the information that had been given initially, namely, that the meetings in question could be held at no additional cost. Her delegation hoped that it would then be able to join in the consensus on the draft resolution.

8. The CHAIRMAN said that he took it that the Committee wished to adopt draft resolution A/C.6/51/L.10 entitled "Establishment of an International Criminal Court", without a vote.

9. Draft resolution A/C.6/51/L.10 was adopted by consensus.

10. Mr. ZHANG Kening (China) said that the necessary steps should be taken immediately to encourage the participation of all countries in the preparatory work on the establishment of an international criminal court in 1997. He noted that, even though it had already expressed its own deep concern as well as the concerns of other delegations over the provisions contained in paragraph 4 of the draft resolution, the Chinese delegation, in a spirit of cooperation and compromise, had decided to join in the consensus on the text. It nevertheless hoped that in future, when decisions concerning such meetings were being made, account would be taken of the points of view of all delegations. He requested that his statement be reflected in the summary record.

11. The CHAIRMAN said that the Committee had thus concluded its consideration of agenda item 147.

AGENDA ITEM 151: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/C.6/51/L.15/Rev.1, A/C.6/51/L.23)

12. Mrs. FERNÁNDEZ de GURMENDI (Argentina), introducing the draft resolution, said that it was the outcome of lengthy consultations, in which many delegations had taken part in a constructive, flexible spirit. Since the text reconciled the different views expressed, she trusted that it would be adopted without a vote.

13. Ms. WILLSON (United States of America), noting that the fight against terrorism was her country's top priority and that her delegation had taken an active part in the informal consultations on the draft resolution, welcomed the efforts made by all delegations to arrive at a consensus on the issue.

14. Her delegation could not, however, subscribe to any decision that might cause the budget ceiling approved for the current biennium to be exceeded. It would join in the consensus if it received confirmation of the earlier assurance that the measures envisaged in the draft resolution could be implemented within existing resources. It had been her delegation's understanding that conference services could be made available for inter-sessional meetings at no extra cost, provided that the relevant dates were indicated. Unless it could be determined that the holding of the meetings in question would not entail additional expenditures, her delegation would be unable to join in the adoption of the draft resolution. It nevertheless hoped to be able to rejoin the consensus in the plenary Assembly, once the Fifth Committee had determined the programme budget implications of the draft resolution.

15. Ms. FLORES (Mexico) said that, although a strong advocate of the right of asylum and of the humanitarian protection of refugees, Mexico condemned all abuses committed by persons who benefited therefrom and would not tolerate the exploitation of those institutions, particularly for terrorist ends. It would prosecute persons who committed such abuses, in accordance with applicable legislation. Her delegation nevertheless felt that refugees and beneficiaries of the right of asylum should not be systematically equated with terrorists.

16. Ms. CUETO MILIÁN (Cuba), echoing the hope that the draft resolution would be adopted without a vote, said that present and future negotiations on the elimination of international terrorism did not necessarily have to result in a text that was as general in scope as the Declaration on Measures to Eliminate International Terrorism, adopted by the General Assembly in 1994. As a legal organ with considerable technical expertise, the Sixth Committee must, of course, approach the definition of international terrorism in all its forms from a global standpoint but also, and above all, from a technical standpoint and avoid using ambiguous terms such as "standards" or general concepts. Instead, it must try to use precise technical language for all subjects, that encouraged the observance and application of international legal instruments.

17. Mr. ZHANG (China) said that, while it had always condemned all forms of international terrorism, China was nevertheless opposed to any attempt to interfere in the sovereignty and integrity of States under cover of the fight against terrorism. There were already a number of specific conventions against terrorist attacks and activities, and all States should take effective measures

to fulfil their obligations under those conventions and increase international cooperation in that area. The absence of a uniform definition of international terrorism could undermine cooperation in combating it, and a definition that was acceptable to all States must therefore be arrived at if an international convention for the suppression of terrorist acts was to be drafted.

18. While it was in favour of the establishment of an Ad Hoc Committee to study questions related to the drafting of a convention, China could not, in the absence of a pre-existing legal framework and specific guidelines for such a convention, subscribe to the idea of immediately authorizing that Committee to draft an international convention for the suppression of terrorist attacks or any other convention along the same lines. It therefore proposed that the Ad Hoc Committee should be asked to deliberate on the definition and manifestations of terrorism, to envisage measures for strengthening international cooperation in the fight against terrorism and to study the question of whether a new convention was needed and what its content should be.

19. Lastly, his delegation had shown considerable flexibility and had agreed to the text of the draft resolution in a spirit of compromise. It reserved the right to comment on the draft at a later date.

20. Mr. RAMEEZ (Malaysia) said that, while his delegation joined in the consensus on the draft resolution, it would like the concept of international standards of human rights invoked in the draft resolution and in the attached declaration to be defined more clearly.

21. Mrs. EKEMEZIE (Nigeria) said that, while it had supported the consensus adoption of the draft resolution in a spirit of compromise, her delegation continued to believe that the expression "international standards of human rights" was open to subjective interpretations that might threaten the very essence of the concept of human rights and undermine the security of States. It would be better to invoke the international human rights instruments with whose provisions everyone was familiar.

22. Mr. WENAWESER (Liechtenstein) said that his delegation reserved the right to explain its position when the draft resolution was adopted by the plenary Assembly.

23. Mr. MOHAMED (Sudan) said that, while his delegation joined in the consensus on the draft resolution, it reaffirmed the need to implement existing instruments on the fight against terrorism and to abandon political considerations that were a thinly veiled attempt to impose on certain States choices of culture or civilization that were alien to them.

24. Mr. HAMDAN (Lebanon) reserved the right to comment on the draft resolution when it was considered in the plenary Assembly.

25. Mr. AL-HABIB (Islamic Republic of Iran), echoing earlier reservations about the expression "international standards of human rights", said that no such

international standards existed. In his view, it would be preferable to invoke universally recognized human rights instruments.

26. Draft resolution A/C.6/51/L.15/Rev.1 was adopted by consensus.

27. Mr. LARSEN (Norway) said that, while supporting the adoption of the draft resolution, his delegation did not agree either with the unlimited mandate which would be assigned under paragraph 9 to the Ad Hoc Committee to be established, or with the idea of a comprehensive convention against terrorism, the drafting of which would, in his view, be a very difficult undertaking. His delegation advocated instead promoting wider accession to existing international instruments on the subject. Hence his delegation's reservations concerning paragraph 10 of the draft resolution. From the standpoint of international law only States could violate human rights. In addition, even individuals accused of criminal acts were entitled to the minimum guarantees afforded by international standards of human rights. In any event, the effort to combat terrorism could not justify the failure to respect human rights.

28. Mr. RÖNQUIST (Sweden) said that, while his delegation supported the adoption of the draft resolution, it nevertheless had some difficulties with it. The Swedish constitution guaranteed the freedom of association and, consequently, Sweden could not ban one or another type of association or organization. Only offences which were planned or perpetrated by individuals or groups could be prosecuted in Sweden. Furthermore, it was highly doubtful that it would be possible to prevent or counteract the financing of terrorists and terrorist organizations and prevent movements of funds, as envisaged in paragraph 3 (f) of the draft resolution. His delegation shared the reservations of the Norwegian delegation with respect to paragraphs 9 and 10 of the draft resolution. Lastly, his delegation was not convinced of the correctness of the interpretation of the Charter of the United Nations reflected in paragraph 2 of the Declaration annexed to the draft resolution.

29. Ms. WONG (New Zealand) said that her delegation was in favour of the draft resolution on international terrorism, especially as it did not call into question the obligation imposed on States parties to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees to respect, inter alia, the principle of non-refoulement and the classic definition of refugee status. The Declaration annexed to the draft resolution provided, in its seventh preambular paragraph, that the Declaration did not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law. In addition, in spite of the legitimate doubts concerning the correctness of certain aspects of the political interpretation of the Charter of the United Nations in paragraph 2 of the Declaration, her delegation considered that the Declaration did not reinterpret the 1951 Convention. Moreover, her delegation welcomed the fact that the United Nations High Commissioner for Refugees had, in particular, confirmed that the provisions of article 1 (f) of that Convention would continue to be interpreted in a restrictive manner where international security, war crimes and crimes against humanity, in particular, were concerned. Lastly, her delegation wished its remarks to be reflected in the official record.

30. Mr. AKBAR (Pakistan) said that there was a need for a legal definition of terrorism. He therefore endorsed the comments made by the delegation of China and expressed the hope that the Sixth Committee would seek to produce a definition by investigating the profound causes of that phenomenon, while ensuring respect for the right of liberation movements to struggle for the self-determination of their peoples.

31. Mr. NGUYEN DUY CHIEN (Viet Nam), said that, while joining in the consensus on the draft resolution, his delegation believed that paragraph 3 would be improved if it called for the adoption of new measures in accordance with the relevant provisions of domestic and international law, since the expression "international law" by itself referred to the instruments, rules, principles and norms of international law and, consequently, made superfluous any express reference to individual instruments.

32. Mr. DIAZ PANIAGUA (Costa Rica) said that, while joining in the consensus on the draft resolution, his delegation held that efforts to combat terrorism must not in any way undermine the protection of human rights and the right of refugees and asylum-seekers. In his delegation's view, the draft resolution did not affect the 1951 Convention and 1967 Protocol relating to the Status of Refugees, or customary law, in particular, the principles of non-refoulement or the regime of diplomatic asylum, which had the standing of customary law in Latin America. Lastly, his delegation shared the view of the United Nations High Commissioner for Refugees that the exclusion clauses in articles 1 and 33 of the 1951 Convention should be interpreted in a restrictive manner and that it was for host countries to punish refugees who engaged in terrorist acts.

33. Mr. AYALOM (Israel) said that the Committee must resist the temptation to confer a kind of legitimacy on terrorist acts by linking them to liberation movements in the name of the struggle for self-determination. It would, in his view, be a serious injustice to such movements to confuse their struggle with criminal acts perpetrated against innocent civilians.

34. Mr. MATRI (Libyan Arab Jamahiriya) said that, while endorsing the draft resolution, he felt it would be improved if it contained a clearer definition of terrorism. Indeed, to term certain acts "terrorist" without defining the criteria used served the selfish aims of certain States. In addition, a distinction should be made between the struggle for self-determination waged by peoples under occupation in accordance with international law, on the one hand, and terrorism proper, on the other.

35. Mr. OBEID (Syrian Arab Republic) said that his delegation reserved its right to comment on the draft resolution in the plenary Assembly.

36. The CHAIRMAN announced that the Committee had completed its consideration of agenda item 151.

37. He reminded the Committee that draft resolution A/C.6/51/L.16 concerning the Convention on the Law of the Non-Navigational Uses of International Watercourses would be considered by the Fifth Committee.

38. Ms. WONG (New Zealand) asked whether the statement made by the United States delegation concerning draft resolutions A/C.6/51/L.10, L.20 and L.15/Rev.1 also applied to draft resolution A/C.6/51/L.16.

39. Ms. WILLSON (United States of America) said that, without wishing to dissociate itself from the consensus on the draft resolution on the Convention on the Law of the Non-Navigational Uses of International Watercourses, her delegation was not prepared to endorse a decision whose financial implications would undermine the financial discipline that had been imposed by the United Nations General Assembly. It would support the draft resolution if assurances were received from the Fifth Committee that it could be implemented within the resources available to the Organization for the current biennium.

40. Ms. FLORES (Mexico) said it was her understanding that the discussion of the draft resolution was closed, as the Sixth Committee had already taken a decision on it.

COMPLETION OF THE COMMITTEE'S WORK

41. After an exchange of courtesies, in which Mr. SIDI ABED (Algeria), Mr. VANDEVELDE (Belgium), Ms. PEÑA (Peru), Mr. ANCELESKI (The former Yugoslav Republic of Macedonia) and Mr. HAMDAN (Libyan Arab Jamahiriya) spoke on behalf of the regional groups of States, the CHAIRMAN, having thanked the members of the Secretariat, including the précis-writers and interpreters, declared that the Sixth Committee had completed its work for the fifty-first session.

The meeting rose at 5.50 p.m.